

AO 88 (Rev 11/91) Subpoena in a Civil Case

# UNITED STATES DISTRICT COURT

## FOR THE MIDDLE DISTRICT OF FLORIDA

Life is Good, Inc.,

SUBPOENA IN A CIVIL CASE

v.

LG Electronics, U.S.A., Inc., et al.

CASE NUMBER: 04-11290 REK (USDC for  
the District of Massachusetts)

TO: Natural Life Collections, Inc.  
Florida Corporation  
1351 13th Avenue South, Suite 100  
Jacksonville Beach, Florida 32250

☐ YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the deposition in the above case.

PLACE OF DEPOSITION:

DATE AND TIME

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects): See attached Schedule A

PLACE Timothy A. Lemper, Esq.  
Finnegan, Henderson, Farabow, Garrett & Dunner LLP  
901 New York Avenue, N.W.  
Washington, DC 20001

DATE AND TIME  
October 31, 2005

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which a person will testify. Federal Rules of Civil Procedure. 30(b)(6).

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE ATTORNEY FOR PLAINTIFF OR DEFENDANT)

DATE

Timothy A. Lemper, Esq., Attorney for Defendants

October 14, 2005

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Timothy A. Lemper, Esq.  
Finnegan, Henderson, Farabow, Garrett & Dunner LLP  
901 New York Avenue, N.W.  
Washington, DC 20001  
202-408-4000

Exhibit 6 to  
Lemper Declaration

(See Rule 45 of Federal Rules of Civil Procedure Parts C & D on Reverse)

## AFFIDAVIT OF SERVICE

17399

Case Number: 04-11290 REK

Court: District Court, Middle District of Florida

Plaintiff: Life Is Good, Inc.

Defendant: LG Electronics, U.S.A., Inc., et al.

For: Timothy A. Lemper, Esq.

Date: 10/31/2005

Finnegan, Henderson, Farabow, Garrett & Dunner, LLP.

Received by Capitol Process Services on the 17 day of October to be served on Natural Life Collections, Inc, Florida Corporation at 1351 13th Avenue South, Suite 100, Jacksonville Beach, Florida 32250.

I, Randall R. Hoke, who being duly sworn, depose and say that on the 18 day of October at 10:50:00 AM, executed service by delivering a true copy of the Subpoena In A Civil Case in accordance with the state statutes in the manner marked below:

☐ **INDIVIDUAL SERVICE:** Served the within named person at .

☐ **SUBSTITUTE SERVICE:** By Serving as at .

☐ **POSTED SERVICE:** After attempting service on at and on at the papers were posted to a conspicuous place on the property described herein.

☒ **CORPORATE SERVICE:** By Serving Patty Hughes as President \*.

☐ **NON-SERVICE:** For the reason detailed in the comments below.

\*Served at 100 Corridor Avenue, Ponte Vedra, Florida.

I certify that I have no interest in the above action, am of legal age and have proper authority in the jurisdiction in which this service was made.

Subscribed and Sworn to before me on  
the 20 day of October 2005  
by the affiant who is personally known to me.

Christine P. Klepinger  
NOTARY PUBLIC

Randall R. Hoke  
Randall R. Hoke / Process Server #25  
Appointed in accordance with Florida State  
Statutes 48.021(2)



Christine P. Klepinger  
Commission # DD427031  
Expires August 13, 2009  
Bonded Troy Fain - Insurance, Inc. 800-365-7016

## **SCHEDULE A**

### ***Definitions and Instructions:***

1. References to "You" and "Your" specifically relate to Natural Life Collections, Inc., and its related companies, predecessors in interest, parents, subsidiaries, divisions, directors, officers, licensees, employees, agents, and representatives.
2. The term "document" or "documents" has the same meaning as set forth in Rule 34(a) of the Federal Rules of Civil Procedure, including but not limited to: drafts, handwritten notes, memoranda, reports, customer surveys, electronic mail messages, web pages, and other digital documents, whether or not previously printed.

### ***Document Request:***

1. All non-privileged documents and things in Your possession, custody, or control that contain, evidence, or refer or relate to the use of any phrase comprised of or containing "Life Is Good" or "Life's Good" (or a similar phrase containing the words "life" and "good," or a variation of either word, e.g. "Life is Great," "Living Good," "Live Good") on or in connection with the marketing, advertising, promotion, offer for sale, or sale of any product or service (including, but not limited to products, product samples, advertisements, promotions, promotional items, business plans, or other marketing materials) including but not limited to the advertisements and products referenced in Exhibit 1.
2. All non-privileged documents and things in Your possession, custody, or control that refer or relate to any trademark application or registration for any mark comprised of or containing "Life Is Good" or "Life's Good" (or a similar phrase containing the words "life" and "good," or a variation of either word, e.g. "Life is Great," "Living Good," "Live Good").
3. Representative documents and things sufficient to identify the details of Your sale or distribution of products and/or services bearing the phrase "Life Is Good" or "Life's Good" (or a similar phrase containing the words "life" and "good," or a variation of either word, e.g. "Life is

Great," "Living Good," "Live Good"), including but not limited to the number of units ordered, sold, or distributed, the geographic area of sale or distribution, the dollar amount of all sales, the price of the goods/services, etc.

4. Representative documents and things sufficient to identify the details of all advertisements and promotions created and/or disseminated by You that contain the phrase "Life Is Good" or "Life's Good" (or a similar phrase containing the words "life" and "good," or a variation of either word, e.g. "Life is Great," "Living Good," "Live Good"), including but not limited to documents sufficient to identify each different advertisement or promotion, the date and place of each advertisement or promotion (i.e. the name of the publication or event), the method of distribution (e.g. television, radio, magazines, trade shows), the geographic scope of each advertisement or promotion, and the total dollar amount of advertising and promotional expenses.



Search

EXHIBIT 1

Page 1 of 2

Home
journals
photo frames
pillows
friendship necklaces
wire posters
hooks
magnets
corner keepsakes
key chains
fabric bags
the mattress ticking collection
charm scrolls
wooden wall hangings
vintage plates
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collectible tins
vintage fabric collection
wooden boxes
ceramic collection
etched mirrors
shadow box keepsakes
Show Order
Privacy Policy
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Search
Index
Y7 SHOPPING

## Welcome to the Natural Life Store

## Search

Search  
☐ words found ☐ words found with ☐ all words found

☐ AH4B - life is good \$10.00


Materials: uncoated wood plaque with colorful painted edges. Size 4" x 4" and 1/2" black hole.

☐ AR135 - life is good \$10.00


Materials: uncoated wood plaque with colorful painted edges. Size 4" x 4" and 1/2" black hole.

☐ B09 - life is good \$10.00


Size 4" round B09

☐ CH4B - life is good \$7.00


Our charm scrolls are 2 1/2" x 2 1/2" with a scroll edge, wire hanger and a dangling charm at the bottom.

☐ CR135 - life is good \$7.00


Our charm scrolls are 2 1/2" x 2 1/2" with a scroll edge, wire hanger and a dangling charm at the bottom.

☐ FK C007 - life is good \$5.00


The back side of our felt key chains feature a plastic pouch for a mini phone. They are approx 2 1/2" x 1 1/2".

☐ H4BC - life is good \$10.00


Our keepsake comes with a chrome case H4BC

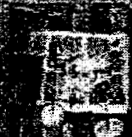
☐ KR135 - life is good \$5.00

Our keychains are small and versatile - a feel good sentiment on



Search

Page 2 of 2



front and back to show the front  
on the back (GIZ: 12/1/05)  
KHLB

**KHLB - life is good**



Our keyboard is made of  
versatile, durable, and comfortable  
the front and back to show the front  
on the back (GIZ: 12/1/05)  
KHLB

**MHLBC - life is good**



Our keyboard is made of  
and feature a type of 15-7 mm  
are perfect with any occasion  
This black and white image will  
come with chrome covers  
MHLBC

[More Results](#)



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fabric bags

the mattress ticking collection

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vintage fabric collection

wooden boxes

ceramic collection

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**Y7 SHOPPING**

## Welcome to the Natural Life Store

### Search

Search:

☐ = works journal ☐ = works round journal ☐ = show journal

**MHB4R - life is good** \$35.00



Our little magnets are 2.5 x 2.5  
MHB4R

**ME006 - life is good** \$35.00



Our adorable 2.5 x 2.5 black and  
white photo frame magnets come  
with chrome corners and have upon  
our easel ME006

**MR135B - life is good** \$35.00



Our corner magnets are 2.5 x 2.5  
and feature upon our easel. They are  
the perfect gift for any occasion.  
This colored image will come with  
brass corners MR135B

**MR135R - life is good** \$35.00



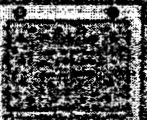
Our little magnets are 2.5 x 2.5  
MR135R

**MUG001 - life is good** \$35.00



Our life mugs are 6.5 tall, hold 10 oz.  
and are dishwasher and  
microwave safe MUG001

**PE0009 - life is good** \$35.00



Small saying "life is good" with a  
little help from our friends on  
hanging frame

**PE0015 - life is good** \$35.00



Our ceramic mini plates are 4.5  
diameter and come with a decorative  
iron stand PE0015

**RI35B - life is good** \$35.00

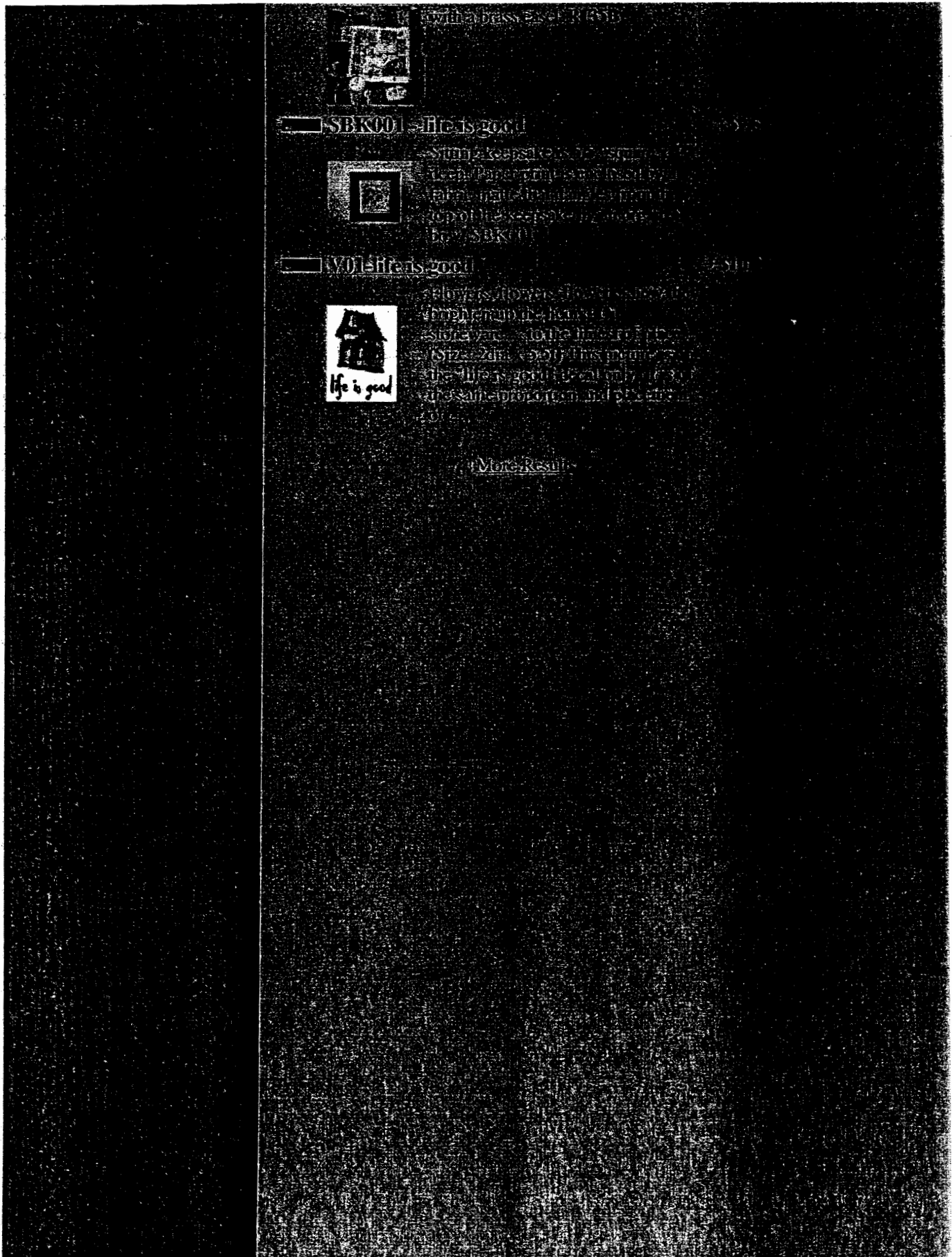


This 4 x 4 brass keepsake comes



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<b>XT SHOPPING</b>

## Welcome to the Natural Life Store

## Search

 
☐ = words only ☐ = words from dictionary ☐ = all words from dictionary

☐ **W13 - life is good** \$10.00


Glass and wood. 2 1/2" x 3 1/2" x 1/2".  
This plaque is made of glass and wood.  
of the same material and  
placement of the first product in the  
series.

☐ **WPH14B - life is good** \$15.00


Each poster is made of steel and  
resizable calligraphic envelope.  
Materials are primarily made of black  
foam core, hung with 13g wire.  
Scroll (Size: Poster 10x10 Overall  
10x10)

☐ **WPH135 - life is good** \$15.00


Each poster is made of steel and  
resizable calligraphic envelope.  
Materials are primarily made of black  
foam core, hung with 13g wire.  
Scroll (Size: Poster 10x10 Overall  
10x10)

Patents, Trademarks,  
Copyrights, Trade Secrets,  
Transactions & Government Contracts

**Mark Young P.A.**  
12086 Fort Caroline Rd., Unit 202  
Jacksonville, Florida 32225  
Phone: 904-996-8099  
Cell: 904-571-8141  
Fax: 904-996-8234

Email: myoung@myoungpa.com

December 13, 2005  
WLC05.001.DOC

Timothy A. Lemper, Esq.  
Finnegan, Henderson, Farabow,  
Garrett & Dunner, L.L.P.  
901 New York Avenue, N.W.  
Washington, D.C. 20001-4413

Re: Natural Life Collections, Inc.

Dear Mr. Lemper:

Pursuant to your request, enclosed please find a copy of the current catalogue of products sold by Natural Life Collections, Inc. I have also enclosed a copy of my response to counsel for Life is Good.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Young", with a long, sweeping horizontal line extending from the end of the name.

Mark Young, P.A.

Enclosure: as stated

NL000001



Patents, Trademarks,  
Copyrights, Trade Secrets,  
Transactions & Government Contracts

***Mark Young P.A.***

9951 Atlantic Blvd., Suite 227  
Jacksonville, Florida 32225  
Phone: 904-721-0600  
Cell: 904-571-8141  
Fax: 904-721-0686

Email: myoung@myoungpa.com

August 3, 2004

NLC04.001.1

Pierce & Mandell, P.C.  
11 Beacon Street, Suite 800  
Boston, Massachusetts 02108

Via Facsimile  
Original by Certified Mail

Attention: Thomas E Kenney, Esq.

Re: Natural Life Collections, Inc.  
Our Ref: NLC04-001

Dear Mr. Kenney:

As counsel for Natural Life Collections, Inc. ("Natural Life"), I have reviewed your correspondence dated June 26, 2004, wherein you allege that Natural Life has violated your client's intellectual property rights. I disagree with your allegations.

Natural Life uses the phrase LIFE IS GOOD in a fair, non-infringing, ornamental manner, which is not likely to cause confusion as to source, affiliation or sponsorship. The inspirational phrase is not used as a trademark and would not lead consumers to conclude any association with your client exists. Instead, products sold by Natural Life prominently feature sentimental phrases as key decorative features. LIFE IS GOOD is but one of many such phrases displayed on Natural Life's products.

Of course, your client did not coin the phrase LIFE IS GOOD. Instead, the inspirational phrase has been around for ages. It is the title of popular music, magazine articles, publications in the Library of Congress database, and works in Copyright Office registration database. It occurs countless times in novels and has long adorned greeting cards. Natural Life's use of the phrase conforms to the public's perception as a sentimental message.

Natural Life's use of the phrase LIFE IS GOOD is also quite dissimilar from your client's mark in appearance. As an initial point of dissimilarity, your client seems to consistently display its mark in a dark uniform color, with a capital L and the remaining letters in lower case, in a very distinct typeface, with several of the letters horizontally unaligned, and with a registration symbol (even when displayed on products not covered by any registration). In sharp contrast, Natural Life's products display the phrase with noticeably different typeface, in various colors, in various horizontal, angled and vertical arrangements, sometimes with capitalized words and other times with lower case words or combinations thereof, always without any proprietary notice. Typically, your client conspicuously displays a distinctive character "Jake" or a "dog"

NL000002

Thomas E Kenney, Esq.  
August 3, 2004  
Page 2 of 3

with its products. However, Natural Life never displays its mark with any designs that are even remotely similar to those characters.

Dissimilarities between the goods also weigh heavily against any likelihood of confusion. My client displays the phrase for the most part on keepsakes, picture frames, pillows, magnets and other decorative items. In contrast, your client mainly sells clothing under its mark. With the exceptions of mugs and pictures, which have entirely dissimilar physical properties and artwork from your client's products, there seems to be no overlap whatsoever in the product offerings.

The purchasing conditions also preclude any possibility of confusion. Natural Life's products are sold with other similar products that also display sentimental phrases such as "LIVE LOVE LAUGH," "ENJOY LIFE," and "FAITH HOPE LOVE." Merchants sell the products from ornamental point of sale displays that prominently feature the mark NATURAL LIFE GIVE. LOVE. LAUGH (as shown in the attachment). While consumers recognize NATURAL LIFE as a trademark, they perceive LIFE IS GOOD and the many other sentimental phrases displayed on the products as ornamentation and inspirational messages, rather than as an indicator of source.

Moreover, based upon our review of your client's pending applications and issued registrations, I believe Natural Life will be able to prove priority. Natural Life commenced business in 1995 (as Mimi's Things Too, Inc.), with promotion and sales of products displaying the LIFE IS GOOD phrase occurring soon thereafter. This antedates the application filing date of every one of your client's issued and prospective registrations, meaning that your client would be relegated to its territorially limited common law rights in a priority contest. This date also precedes most dates of first use alleged by your client in its applications and registrations, with the sole exception of Reg. No. 2,481,887, which we believe covers products not sold by either party.

As we honestly believe that Natural Life is not violating your client's rights, Natural Life is not prepared to phase-out use of the phrase LIFE IS GOOD on its products. Please understand that Natural Life has gone to great lengths to cultivate a unique and valuable trade identity based on its artistic hand-made keepsake items. We hope that your client will reconsider its position and conclude that the products can peacefully co-exist. However, in the event your client decides to initiate a lawsuit, you will leave Natural Life no choice but to aggressively defend its substantial investment, which may include (without limitation) asserting priority, pursuing cancellation of your client's registrations and advancing various legal and equitable defenses.

This letter is written without prejudice to or waiver of Natural Life's rights, remedies and defenses, all of which are expressly reserved.

NL000003



Thomas E Kenney, Esq.  
August 3, 2004  
Page 3 of 3

Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark J. Young". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Mark J. Young

Attachment: as stated

c: Patricia L. Hughes

NL000004



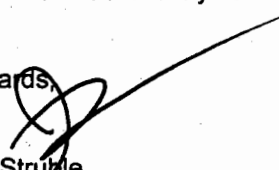
Mark Young P.A.  
12086 Fort Caroline Rd., Unit 202  
Jacksonville, Florida 32225

Mark,

Enclosed is our current catalog which indicates that Natural Life has been selling products with the sentiment "Life is Good". These products are currently offered by Natural Life for sale.

Please contact me if you need any additional documentation on this matter.

Regards,

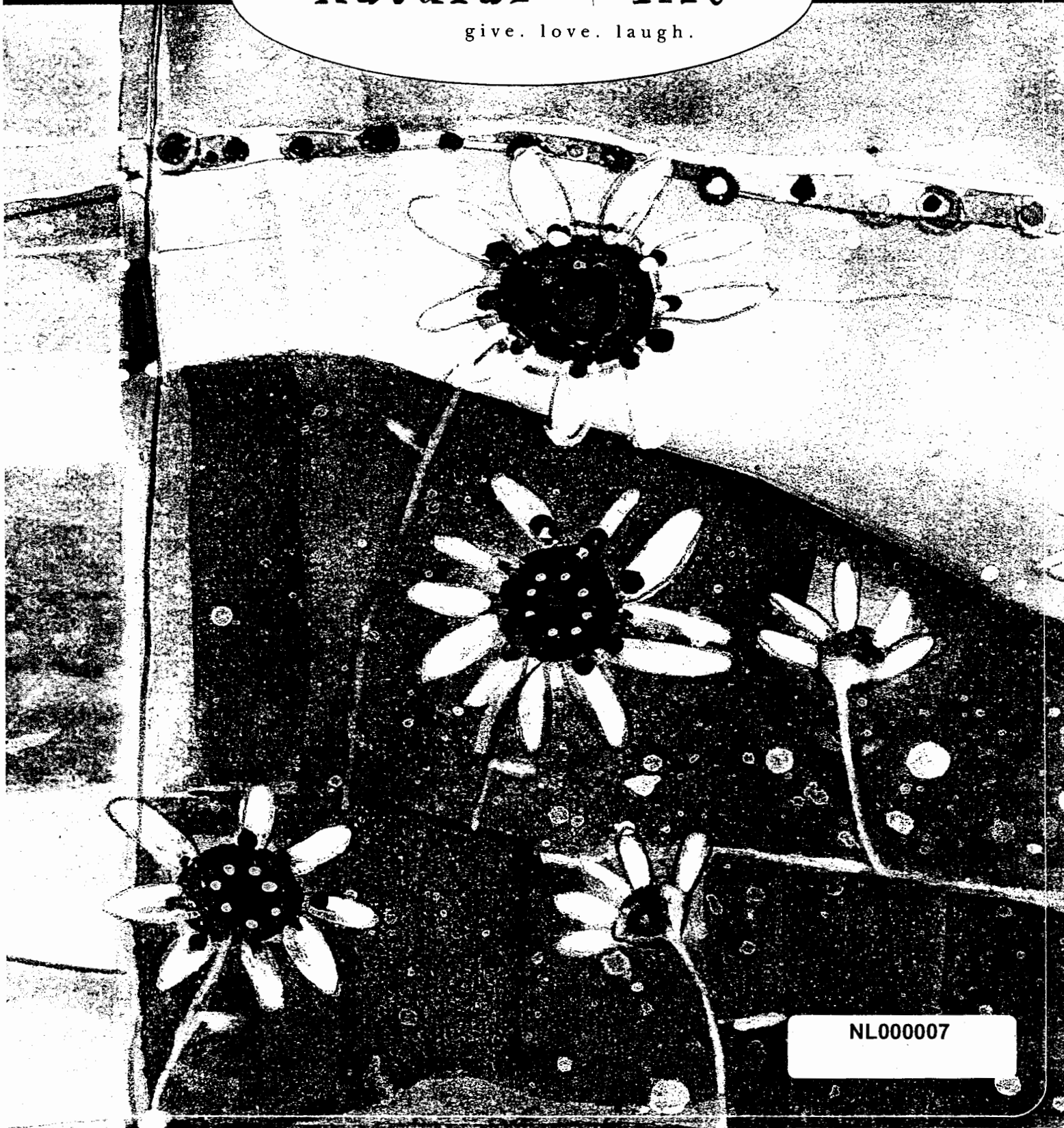
  
Jeff Struble  
CFO-Natural Life  
904-241-0370 ext 224

NL000006



2005 Product Catalog

natural  life  
give. love. laugh.



NL000007

# natural life

give. love. laugh.



Patti, Halle, Gracie and Madison

## welcome to natural life!

Inside you'll discover our largest catalog yet—with more unique, trend-forward and affordable sentiment gifts!

This season we explored different mediums with new artists and came up with some very cool and functional products.

We also expanded many of our top selling products with additional designs and wonderful new artwork! As always, we can say... "there is something for everyone!"

Enjoy,

Patti

NL000008

800.884.3856 order

## catalog contents

4	heart rocks	new!	4-5
	mod	new!	6-9
	keepsakes		7
	mini hangers		8
	magnets		9
	painted metal	new!	10-11
	frames		10
	magnet boards		10
	mini magnets		11
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	tie-dyed soap		12
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	angel notepads	new!	15
	ceramic		16-23
	latte mugs		17
	mini plates		19
	mugs		19
	vases		20
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	mugs	new!	23
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	memo boxes	new!	25
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	vintage pillows		32
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	patchwork pillows	new!	34
	patchwork wall hangings	new!	35
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	matress ticking bags		36
	matress ticking journals		37
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	wall frames	new!	46
	tin collection		47-49
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	and more!		52-57
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	hooks		56
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	printed images		58-67
	prepaks/point of sale		59-61
	friends		62
	family		64
	life		65
	area representatives		68 (back cover)



painting metal

# frames + magnet boards

## frames

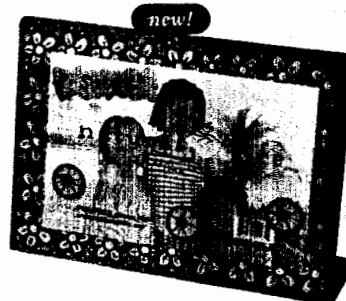
each hand-painted metal frame includes a word magnet plus three shaped magnets  
frame size: 7.5" x 5.5" x 2"  
holds 4" x 6" photo  
\$7.50/item, mins of 3

prepak  
9 frames  
\$67.50

PMMFPAK



PMMF01 - live love laugh



PMMF02 - sisters



PMMF03 - friends forever

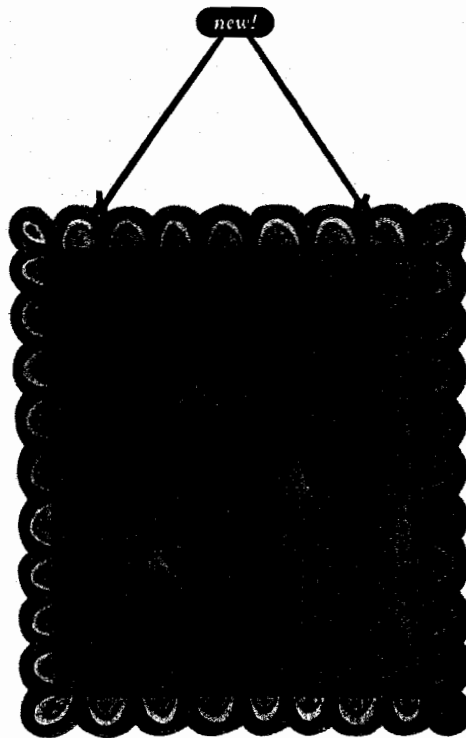


## magnet boards

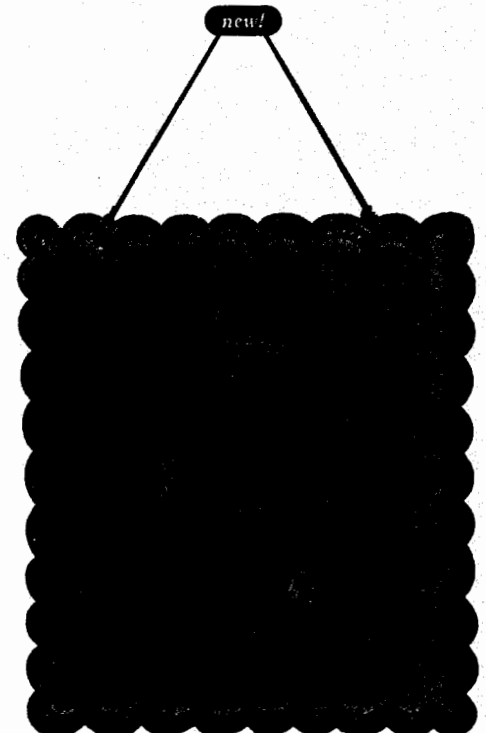
each hand-painted metal board, embellished with sparkles, includes a word magnet plus two shaped magnets  
size: 12" x 14"  
\$11/item, mins of 1



NL000016



PMMB01 - live love laugh

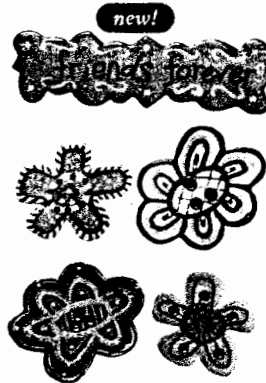


PMMB02 - life is good





PMMS01



PMMS02



PMMS03



PMMS04



PMMS05



PMMS06



PMMS07

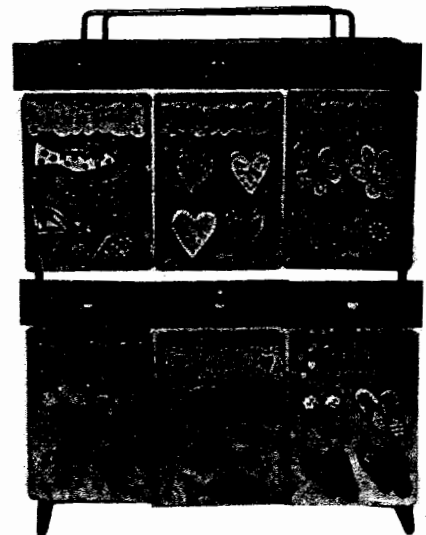


mini magnet sets  
each set includes word magnet  
plus four shaped magnets  
size: 2.625" x 4.625"  
\$5/set, mins of 4

NL000017

display  
24 magnet sets + offset  
size: 3' x 8' x 11.5"  
\$130

PMMSPO6



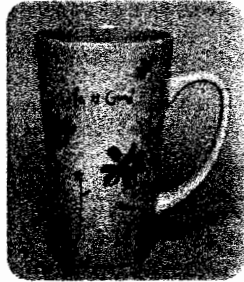


ceramic

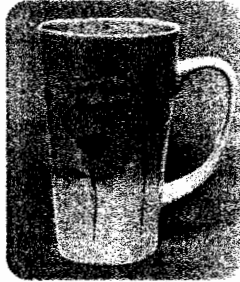
## latte mugs

## ◀ detail

Stylish and trendy mug paired with a give-able sentiment equals the perfect gift for any latte lover.



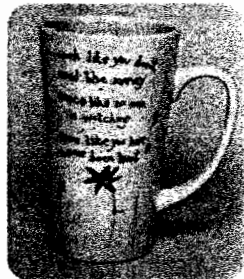
MUG001 - life is good



MUG002 - sisters are friends forever



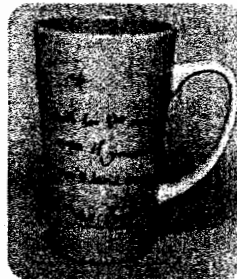
MUG003 - there's an angel watching over you



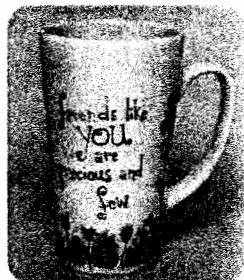
MUG004 - work like you don't need the money, dance like no one is watching, love like you have never been hurt



MUG005 - friends are angels following you through life



MUG006 - shoot for the moon, even if you miss, you'll land among the stars



MUG007 - friends like you are precious and few



MUG008 - big dreams start small



MUG009 - when I count my blessings, I count you twice



MUG016 - friends are like flowers they brighten your day



MUG017 - a friend is someone who knows all about you and likes you anyway



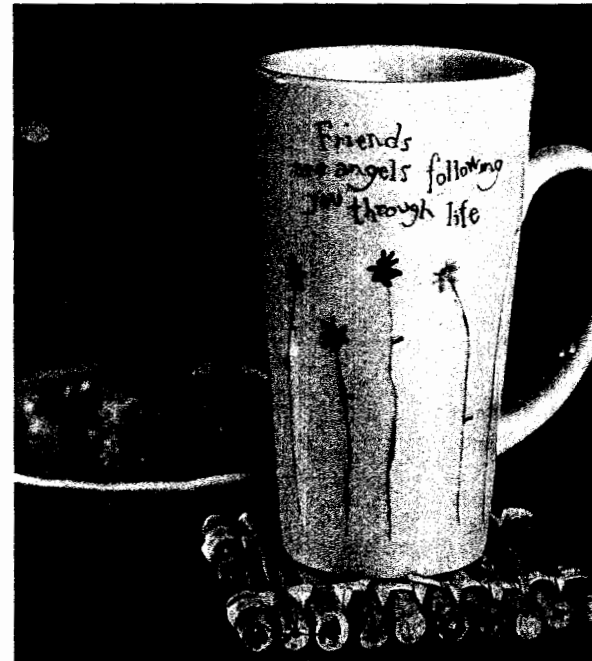
MUG018 - a mother is a friend you never outgrow



MUG019 - you mean the world to me



latte mugs  
microwavable and  
dishwasher safe  
size: 6" 16oz.  
\$5/item, mins of 4



prepak  
32 mugs  
\$160

MUGPAK



NL000023

order 800.884.3856





NL000024

800.884.385 order

ceramic

## mini plates + mugs

## ◀ detail

Charming collection of illustrated ceramic gifts brighten any room in the home.

mini plates  
iron stand included  
size: 4" diam  
\$5/item, mins of 4



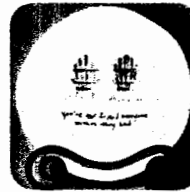
PLQ001 - friends are angels following you through life



PLQ002 live love laugh



PLQ003 - things happen for a reason, just believe



PLQ012 - you're the kind of friend everyone wishes they had



PLQ013 - my sister my friend



PLQ014 - home is where your mom is



PLQ015 life is good



PLQ016 friends forever



PLQ017 - friends like you are precious and few



PLQ023 - love blooms in a grandmother



PLQ025 - teachers touch tomorrow



PLQ026 friends



PLQ027 sisters



PLQ028 - a daughter is a special part of all that's cherished in the heart



PLQ029 - shoot for the moon, even if you miss you'll land among the stars



prepak  
30 mini plates  
\$150

MPPAK



MUG010 - you're the friend everyone wishes they had



MUG011 - my sister, my friend



MUG012 - home is where your mom is



MUG013 - life is good



mugs  
microwavable and  
dishwasher safe  
size: 4.25" 15oz.  
\$5/item, mins of 4

prepak  
24 mugs  
\$120

MUGPAK2



MUG014 - friends forever



MUG015 - things happen for a reason, just believe



NL000025